

Introduction

The presentence report is out of date. The PSR was drafted in September, 2021 and does not address the 18 -20 months Austin Wayne Reinke spent in custody and, far more significantly, the 18 months since his release from custody on pretrial release.

Mr. Reinke went from a drug user to a drug dealer in a moment of gross and grave misjudgment, trying to feed his own habit only to find himself embroiled in a much larger case in which he is a minor participant who know nothing of the larger scope. He has remarkably turned his life around and achieved the conduct and behavior that the court wishes all defendants would.

General Background

The Presentencing Report prepared in Fall, 2021 provides the court with a full background report on Mr. Reinke's life history to that point in time. It is an accurate, but an incomplete representation. What the court can see is a boy and then a young man embroiled in his mother's drug use which in time became his own. Any criminal involvement was linked directly to drugs.

It is essential for the court to know of what has happened since he has been on pretrial release. As outlined in the PSR, Mr. Reinke's upbringing was

1 extremely difficult. He faced many challenges and failed at time and succeed at
2 others.¹

3 After serving roughly 18 - 20 months in Sheridan FCI, Mr. Reinke
4 completed in-patient drug treatment with Willamette Family, followed by intensive
5 outpatient and group treatment over a period of 7 months. Mr. Reinke has been
6 employed full-time with Swanson Group. His work includes functioning as
7 quality control lead for production at the mill and as the lead inspector on safety
8 and related issues at the plant. This is a job he values, and his work is well
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10 regarded and well compensated. He currently works 6 days a week, 10 hours per
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12 day.

13 But of greatest significance and utmost importance are the steps Mr. Reinke
14 has taken to reestablish his family and personal life, and care for his children.

15 Over the course of the time this case has been pending the mother of his daughter
16 Diane lost her parental rights to the State, but Mr. Reinke never gave up. He has
17 worked with the juvenile court and DHS to establish and maintain visitation rights
18 and has learned that if he can remain out of custody the State is prepared to return
19 full custody of 3year old Diane to him. Additionally, he has an 8 year old
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23 ¹ The Government notes that Mr. Reinke absconded. This occurred before entered his change of
24 plea and served the length period in custody prior to drug treatment and his subsequent pretrial
25 release.

1 daughter Rayna who lives with him and his domestic partner Lindsey. He and
2 Lindsey also have a 7-month-old son Armany together.

3 So much now depends upon his continued hard work and success, and the
4 need to remain out of custody. This is utmost in his mind and what moves him
5 forward each and every day.
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7 **Substance Abuse**

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9 Drugs have unfortunately long played a significant factor in Mr. Reinke's
10 life and are his downfall. His prior criminal record consists of minor offenses in
11 which every criminal episode in his life has been directly associated with drugs.
12 Mr. Reinke has risen to the challenge of his addiction. He now recognizes that he
13 needs to take care each and every day. He is now set on the right course and would
14 benefit from a sentence which recognizes and acknowledges his efforts to date.
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17 **SENTENCING CONSIDERATIONS**

18 **ADVISORY GUIDELINE CALCULATION**

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20 The defense does not dispute the PSR advisory calculation but does
21 believe that the calculation of his criminal history is overstated. We do take issue
22 with the calculation of his criminal history as a Category III. The offenses reported
23 in paragraphs 48 (10 days jail), 49 (no jail) and 51 (no jail) are all misdemeanors
24 for which either no jail was imposed or only a very short period of jail was
25 imposed. Further, the felony charge listed in paragraph 53 for which a 2-day

1 sentence was imposed for possession of a personal quantity of methamphetamine
2 would only be a violation under current Oregon law.

3 Additionally, the warrant referenced in paragraph 48 on a misdemeanor
4 charge was unknown to Mr. Reinke. The 2-point enhancement is an overreach.

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6 **SENTENCING RECOMMENDATION**

7 Mr. Reinke has served approximately 18 months in custody.

8 The court is requested to consider the outstanding progress Mr. Reinke
9 has made in putting his life on track since his arrest and, in particular, the past year
10 and a half since his release from custody; successfully completing drug treatment,
11 maintaining sobriety, engaging in full time employment, and setting his
12 relationship with his children on a proper course.

13 Since Judge Aiken granted his release from custody into drug treatment,
14 he completed all phases of treatment, maintained employment, and successfully
15 and fully reintegrated himself into the community.

16 Pretrial has recognized this success by periodically modifying the terms
17 of his Pre-Release to remove conditions such as electronic monitoring, until
18 recently removing all special and restrictive conditions and granting him release on
19 his own recognizance.
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1 A sentence in accord with the requirements of 18 U.S.C. § 3553(a) and
2 furthering the purposes so set forth would well serve Mr. Reinke. A sentence of
3 time served, and probation is appropriate.

4 18 U.S.C. § 3553(a) -- Factors to be considered in imposing a sentence.

5 The Court shall impose a sentence sufficient, but not greater than necessary,
6 to comply with the purposes set forth in paragraph (2) of this subsection.

7 The Court, in determining the particular sentence to be imposed, shall
8 consider:

9 (1) the nature and circumstances of the offense and the history and
10 characteristics of the defendant;

11 (2) the need for the sentence imposed -

12 (A) to reflect the seriousness of the offense, to promote respect for the law,
13 and to provide just punishment for the offense;

14 (B) to afford adequate deterrence to criminal conduct;

15 (C) to protect the public from further crimes of the defendant; and

16 (D) to provide the defendant with needed educational or vocational training,
17 medical care, or other correctional treatment in the most effective manner.

18 A sentence requiring incarceration would serve no good purpose. It would
19 significantly setback Mr. Reinke and cause considerable harm to his family. Mr.
20 Reinke's efforts to get himself on the right track should not be ignored and could
21 serve as a useful point of reference to others.

22 The defense notes that other co-defendants with similar or equal culpability
23 received sentences as short as time serviced.

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1 While we urge the court to find a sentence of time served and post-prison
2 supervision just and proper, should the court determine that a period of further
3 incarceration is required, Mr. Reinke would ask the court to permit him to serve
4 that time at Sheridan.

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6 Dated this 2nd day of November, 2023.

7 Respectfully Submitted,

8 /s/ Marc Friedman
9 Marc P. Friedman, OSB #892448
10 Attorney for Austin Wayne Reinke
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